

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
TITLE 4, DIVISION 11, ARTICLE 3**

**NOTICE OF EXTENSION OF WRITTEN COMMENT PERIOD**

NOTICE IS HEREBY GIVEN that the California Pollution Control Financing Authority is **extending the written comment period** regarding proposed adoption to California Code of Regulations, Title 4, Division 26, Section 8035.5 – Equipment Only Bond Financing Program, pursuant to the Notice of Proposed Changes filed with the Office of Administrative Law and originally published on May 31, 2013 (Register Z-2013-0521-03). Written Comments, include those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in the Notice, must be received by the Board at its office no later than 5:00 p.m. on August 19, 2013, or must be received by the Board at the hearing. Attached are the Notice of Proposed Changes in the Regulations and the Proposed Language for your reference.

A public hearing has not been scheduled; however, pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**CONTACT PERSON:**

If you have any questions or comments, you may direct them to:

Andrea Gonzalez, Staff Services Analyst  
California Pollution Control Financing Authority  
915 Capitol Mall, Room 444  
Sacramento, CA 95814  
Telephone: (916) 651-7284  
Fax: (916) 657-4821  
Email: [agonzalez@treasurer.ca.gov](mailto:agonzalez@treasurer.ca.gov)

Or:

Deanna Hamelin, Associate Treasury Program Officer  
California Pollution Control Financing Authority  
915 Capitol Mall, Room 445  
Sacramento, CA 95814  
Telephone: (916) 657-4337  
Fax: (916) 657-4821  
Email: [Deanna.Hamelin@treasurer.ca.gov](mailto:Deanna.Hamelin@treasurer.ca.gov)

DATE: 6/24/2013

  
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Renee Webster-Hawkins  
Executive Director  
California Pollution Control Financing Authority

## **TITLE 4. BUSINESS REGULATIONS**

### **NOTICE OF PROPOSED RULEMAKING**

Pursuant to Section 44520(b) of the Health and Safety Code, the regulations being adopted herewith by the California Pollution Control Financing Authority (the “Authority”) are, by legislative mandate, necessary for the implementation of small businesses assistance and the immediate preservation of the public peace, health and safety, and general welfare.

#### **Proposed Regulatory Action**

The Authority proposed to adopt and extend Section 8035.5 of Title 4 of the California Code of Regulations (the “Regulations”) concerning the administration of the California Pollution Control Financing Authority’s Bond Program. These Adopted Regulations are necessary to implement, interpret and make specific Articles 3 and 4 of the California Pollution Control Financing Authority Act (the “Act”).

#### **Authority and Reference**

Authority: Sections 44520(a) and 44520(b), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.” Section 44520(a) of the Act authorizes the Authority to adopt necessary regulations to carry out its powers and duties under this division in administering applications for financing.

Reference: Section 44548(a)(1)(A), Health and Safety Code. These adopted regulations implement, interpret, and make specific Sections of the Act by adopting and extending Section 8035.5 of Title 4, Division 11, Article 3 of the California Code of Regulations.

#### **Informative Digest/Policy Statement Overview**

Existing law establishes the Authority to implement small business financing assistance programs pursuant to Section 44520(b) of the Health and Safety Code.

The proposed adoption extends a section to the existing regulations. The primary driver of these changes is to incent California companies to accelerate equipment investments by offering an Equipment Only Bond Financing Program to encourage companies to issue bonds through CPCFA instead of using conventional bank loans. The program will allow for lower costs of issuance fees to applicants making it more cost-effective to take advantage of the savings obtained by issuing tax-exempt bonds with a lower interest rate.

The proposed adoption to the current regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or

elimination of existing businesses within California, or significantly affect the expansion of business currently doing business within California.

The proposed amendments to the CPCFA Regulations are consistent and compatible with the existing state statute and regulations, and the objective is as follows:

**Section 8035.5(a).** *Adoption of this regulation section using identical language as expired section 8035.5.*

The Authority hereby establishes the Equipment Only Bond Financing Program to encourage bond financing for small businesses to meet their equipment purchasing needs.

In order to participate in the program, applicants must make the following covenants when they submit their request for financing:

- (1) Bonds must have a final maturity of 12 years or less.
- (2) At least 90% of the net project fund of the proposed bond issue must be used to finance equipment, rolling stock and the like with expected economic lives of no more than 10 years. No real estate, improvements thereto, buildings or the like are eligible.
- (3) Bond counsel and disclosure counsel fees are limited to \$45,000 collectively.
- (4) Applicant's financing consultant fees are limited to 0.5% of par.
- (5) Applicant's underwriter fees are limited to 0.7% of par.
- (6) Applicant's counsel and co-counsel fees are limited to \$12,500 collectively.

**Section 8035.5(b).** *Adoption of this regulation section using identical language as expired section 8035.5.*

The Authority will waive the fee as defined in §8035(a).

**Section 8035.5(c).** *Adoption of this regulation section using identical language as expired section 8035.5.*

No more than \$20 million of bonds may be issued per borrower under this program.

**Section 8035.5(d).** *Extension of the Equipment Only Bond Financing Program.*

The program will expire on December 31, 2014.

### **Disclosure Regarding the Proposed Action**

The Executive Director of the Authority has made the following determinations regarding the effect of the Adopted Regulations:

**Mandate on local agencies or school districts:** None.

**Cost or savings to any state agency:** None.

**Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500–17630:** None.

**Other non–discretionary cost or savings imposed on local agencies:** None

**Cost or savings in federal funding to the state:** None.

**Significant effect on housing costs:** None.

**Cost impact on a representative private person or business:** The Authority is not aware of any cost impacts that a representative, private person, or business would necessarily incur with reasonable compliance with the proposed action.

**Small Business:** The Adopted Regulations will not have an adverse impact on small business in California and will not affect small business since they do not impose additional restrictions or cost on small business.

**Significant, statewide, adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:** The Authority has made an initial determination that the Adopted Regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **Results of the Economic Impact Analysis**

**Assessment regarding effect on jobs/businesses:** The Adopted Regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business in California.

**Benefits of the health and welfare of California residents, worker safety, and the state's environment:** Please see benefit discussion under Informative Digest/Policy Statement Overview, page 1.

### **Consideration of Alternatives**

In accordance with Government Code Section 11346.5(a)(13) the Authority must determine that no reasonable alternative to the Adopted Regulations considered by the Authority or that have otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the Adopted Regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Authority invites interested parties to present statements with respect to alternatives to the Adopted Regulations during the written comment period.

### **Agency Contact Person**

Written comments, inquiries and any questions regarding the substance of the Adopted Regulations shall be submitted or directed to:

Andrea Gonzalez, Staff Services Analyst  
California Pollution Control Financing Authority  
915 Capitol Mall, Room 444  
Sacramento, CA 95814  
Telephone: (916) 651-7284  
Fax: (916) 657-4821  
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### **Written Comment Period**

Any interested person, or his or her authorized representative, may submit written comments relevant to the Adopted Regulations to the Authority. The written comment period on the Adopted Regulations ends at **5:00 p.m. on August 19, 2013**. All the comments must be submitted in writing to the Agency Contact Person identified in the Notice by that time in order for them to be considered by the Authority.

In the event that substantial changes are made during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency contact person identified in this Notice.

### **Availability of Initial Statement of Reasons And Text of Proposed Regulations**

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Room 457, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this notice, the Initial Statement of Reasons and the proposed text of the Adopted Regulations. Copies of these items are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcf/index.asp>

### **Public Hearing**

A request for a public hearing may be made by written request to the Agency Contact Person no later than 15 days prior to the close of the written comment period.

### **Availability of Changed or Modified Text**

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the Adopted Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed Adopted Regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

### **Availability of Final Statement of Reasons**

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or found at the Authority's website at <http://www.treasurer.ca.gov/cpcfa/index.asp>

# **PROPOSED TEXT OF REGULATIONS**

## **Title 4. Business Regulations**

### **Division 11. California Pollution Control Financing Authority**

#### **Article 3. General Provisions Relating to Authority Actions**

##### **§ 8035.5 Equipment Only Bond Financing Program.**

- (a) The Authority hereby establishes the Equipment Only Bond Financing Program to encourage bond financing for small businesses to meet their equipment purchasing needs.

In order to participate in the program, applicants must make the following covenants when they submit their request for financing:

- (1) Bonds must have a final maturity of 12 years or less.
- (2) At least 90% of the net project fund of the proposed bond issue must be used to finance equipment, rolling stock and the like with expected economic lives of no more than 10 years. No real estate, improvements thereto, buildings or the like are eligible.
- (3) Bond counsel and disclosure counsel fees are limited to \$45,000 collectively.
- (4) Applicant's financing consultant fees are limited to 0.5% of par.
- (5) Applicant's underwriter fees are limited to 0.7% of par.
- (6) Applicant's counsel and co-counsel fees are limited to \$12,500 collectively.

- (b) The Authority will waive the fee as defined in §8035(a).

- (c) No more than \$20 million of bonds may be issued per borrower under this program.

- (d) The program will expire on December 31, 2014.

NOTE: Authority cited: Section 44520, Health and Safety Code.

Reference: Section 44548, Health and Safety Code.